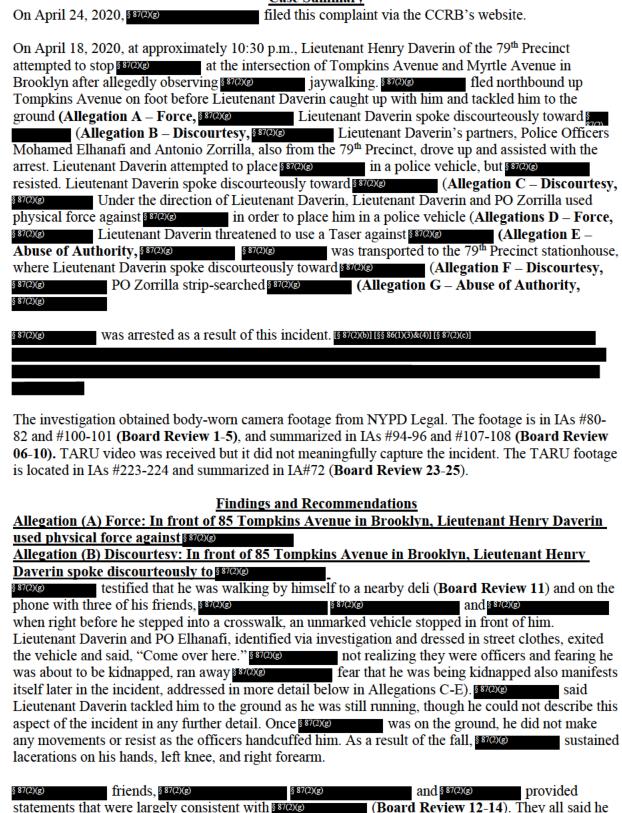
## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	V	Force	<b>V</b>	Discourt.		U.S.
Rolando Vasquez		Squad #13	202002855		₫ Abuse		O.L.		Injury
Incident Date(s)		Location of Incident:	•	F	recinct:	18	Mo. SOL	I	EO SOL
Saturday, 04/18/2020 10:30 PM, S 04/18/2020 10:30 PM	aturday,	85 Tompkins Avenue; stationhouse	79th Precinct		79	10	0/18/2021	5	5/4/2022
Date/Time CV Reported		CV Reported At:	How CV Reported	:	Date/Time	Rece	eived at CC	RB	
Fri, 04/24/2020 10:12 AM		CCRB	On-line website		Fri, 04/24/	2020	10:12 AM		
Complainant/Victim	Type	Home Addre	ess						
Witness(es)		Home Addre	ess						
Subject Officer(s)	Shield	TaxID	Command						
1. LT Henry Daverin	00000	945645	079 PCT						
2. POM Antonio Zorrilla	10893	961480	079 PCT						
Witness Officer(s)	Shield N	o Tax No	Cmd Name						
1. POM Mohamed Elhanafi	15082	955897	079 PCT						
Officer(s)	Allegatio	on			Inve	stiga	ator Recor	nme	ndation
A.LT Henry Daverin	Force: In front of 85 Tompkins Avenue in Brooklyn, Lieutenant Henry Daverin used physical force against  887(2)(2)								
B.LT Henry Daverin	Discourtesy: In front of 85 Tompkins Avenue in Brooklyn, Lieutenant Henry Daverin spoke discourteously to \$87(2)(8)								
C.LT Henry Daverin	Discourtesy: In front of 85 Tompkins Avenue in Brooklyn, Lieutenant Henry Daverin spoke discourteously to \$857(2)(2)								
D.LT Henry Daverin	Force: In front of 85 Tompkins Avenue in Brooklyn, Lieutenant Henry Daverin used physical force against  § 87(2)(2)								
E.LT Henry Daverin	Abuse: In front of 85 Tompkins Avenue in Brooklyn, Lieutenant Henry Daverin threatened strong with the use of force.								
F.LT Henry Daverin	Discourtesy: At the 79th Precinct stationhouse, Lieutenant Henry Daverin spoke discourteously to \$87(2)(g)								
G.POM Antonio Zorrilla	Abuse: At the 79th Precinct stationhouse, Police Officer Antonio Zorrilla strip-searched \$87(2)@								

Case Summary



Page 1

was under

was going to the store to buy food when they heard him over the phone yell for help. It sounded as if

he was running and out of breath. After a few minutes, it became clear that sages

CCRB CTS - Confidential

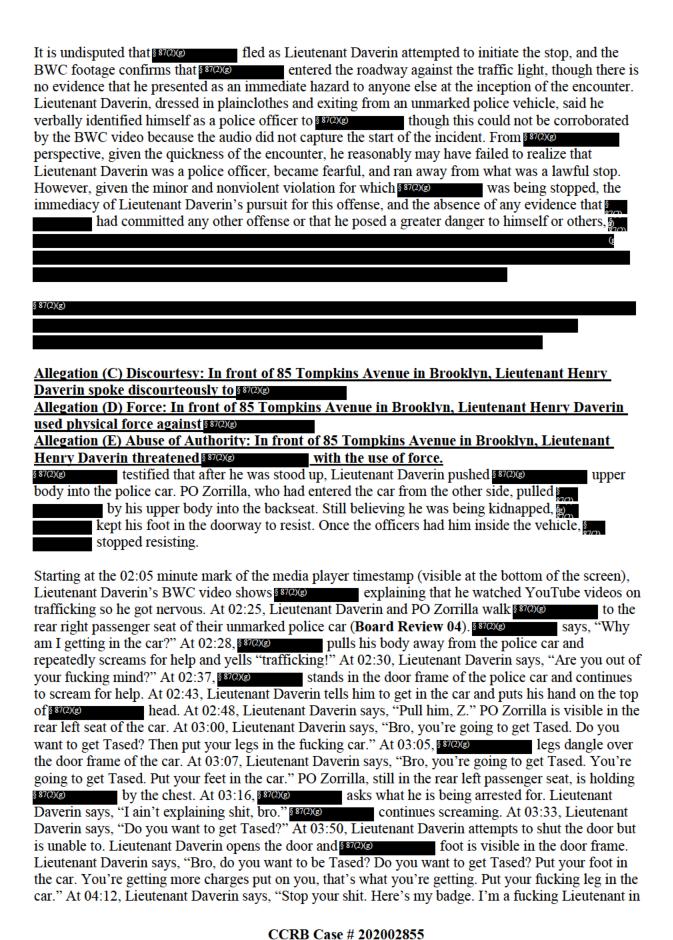
arrest, as he could be heard asking what he was under arrest for and voices ordered him to produce his ID.

The start of Lieutenant Daverin's BWC video shows him seated in the front passenger seat of the police vehicle as the officers approach an intersection through a steady green traffic signal (**Board Review 04**). At the 00:40 minute mark (based on the media player timestamp on the bottom of the screen), Lieutenant Daverin opens the door and steps out of the vehicle. Store is standing in the crosswalk of the intersection. The pedestrian crosswalk signal is visible on the left side of the screen as a red upraised hand. Store turns away from Lieutenant Daverin. At 00:44, crosswalk, tumbles are turns away. At 00:57, Store trips and falls to the ground on the sidewalk, tumbles forward, and begins to stand up. At 01:00, Lieutenant Daverin catches up with store body, the video does not capture Lieutenant Daverin's physical movements to get Store to the ground. Lieutenant Daverin says, "What the fuck are you doing?" At 01:11, Lieutenant Daverin says, "Put your fucking hands behind your back," as he and other officers attempt to place Store in handcuffs.

Lieutenant Daverin testified that he and his partners drove west down Myrtle Avenue toward the intersection of Myrtle Avenue and Tompkins Avenue (Board Review 15). Lieutenant Dayerin was the Anti-Crime supervisor, and they were patrolling the area which is a gun prone location. As they approached that intersection, they had a green light to proceed down Myrtle Avenue. From the front passenger seat, Lieutenant Daverin observed \$87(2)(g) walking southbound on Tompkins Avenue, approaching Myrtle Avenue. \$87(2)(g) entered the roadway against the traffic signal. Lieutenant Daverin told his partners to stop the vehicle because he intended to stop §87(2)(g) illegally entering the roadway. Lieutenant Daverin exited his vehicle, identified himself by saying "Police Department," and approached \$87(2)(g) who fled on foot north up Tompkins Avenue. When he caught up with \$87(2)(g) Lieutenant Daverin wrapped his arms around \$87(2)(g) torso and tackled him to the ground. § 87(2)(g) physically resisted being placed in handcuffs by pulling his hands underneath him. Lieutenant Daverin said, "What the fuck are you doing," because he became excited and wondered why \$87(2)(g) ran away even though he was being stopped for a simple violation. Lieutenant Daverin told \$87(2)(g) "Put your fucking hands behind your back" to gain his compliance.

The primary duty of all members of the service is to protect human life, including the lives of individuals being placed in police custody. Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. Various factors determine the reasonableness of an application of force including a) the nature and severity of the crime/circumstances, b) actions taken by the subject, c) duration of the action, d) immediacy of the perceived threat of harm to the subject or others, e) whether the subject is actively resisting custody, f) whether the subject is attempting to evade arrest by flight, g) number of subjects in comparison to the number of officers, h) size, age, and condition of the subject in comparison to the MOS, i) subject's violent history, if known, j) presence of hostile crowd or agitators, k) subject under the influence of stimulant/narcotic. <a href="https://nxyypp.nih.gov/nxypp-nxyp

Officers must value human life, respect the dignity of each individual, and render services with courtesy and civility. NYPD Patrol Guide, Procedure 200-02 (**Board Review 17**). When an officer makes profane remarks during a stressful street encounter where the officer is attempting to maintain control of the situation, the officer's remarks will not rise to the level of actionable misconduct. DCT Case #2018-18950 (**Board Review 18**).



Lieutenant Daverin and PO Zorrilla were consistent in describing that refused to enter the police car after being ordered to do so (**Board Review 15, 20**). Solve also physically resisted by stiffening his body as the officers brought him to the car. Lieutenant Daverin pushed by the top part of his body, inside the car while PO Zorrilla entered the backseat and pulled him inside. Once inside, solve continued resisting by keeping his feet in the doorway and kicking the door, which prevented Lieutenant Daverin from being able to shut the door.

Lieutenant Daverin testified that he used profanity during this aspect of the encounter in order to gain

Lieutenant Daverin testified that he used profanity during this aspect of the encounter in order to gain compliance. Similarly, he threatened to use a Taser against active resistance and in an attempt to gain his compliance. Lieutenant Daverin never unholstered his Taser but believed he may have been justified in using it if a lateral had continued to resist. However, deploying the Taser did not cross Lieutenant Daverin's mind during the incident.

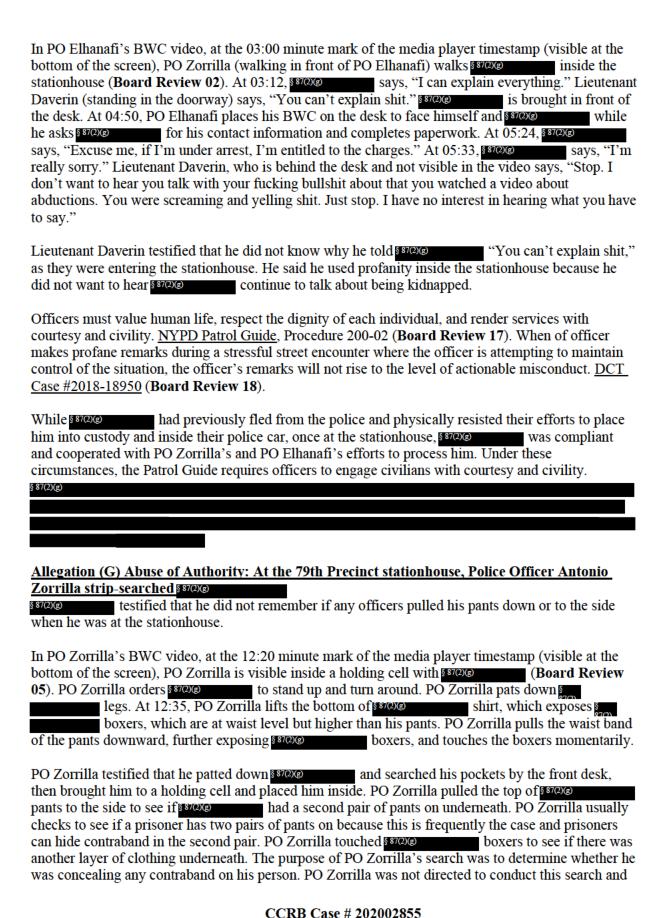
Officers must value human life, respect the dignity of each individual, and render services with courtesy and civility. NYPD Patrol Guide, Procedure 200-02 (Board Review 17). When an officer makes profane remarks during a stressful street encounter where the officer is attempting to maintain control of the situation, the officer's remarks will not rise to the level of actionable misconduct. DCT Case #2018-18950 (Board Review 18). A conducted electrical weapon (CEW) should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other persons actually present. Active resistance includes physically evasive movements to defeat a member of the service's attempt at control, including bracing, tensing, pushing or verbally signally an intention to avoid or prevent being taken into or retained in custody. A CEW should never be used in cartridge or drive stun mode on a rear-handcuffed prisoner. NYPD Patrol Guide, Procedure 221-08 (Board Review 22).

Given § 87(2)(g)	physical resistance as officers attempted to place him in the police car, which
§ 87(2)(g)	acknowledged and which is captured in the BWC video, the officers' use of force,
specifically p	ushing and pulling him inside the car in order to transport him to the stationhouse,
	Given that the BWC footage shows Lieutenant Daverin directing
PO Zorrilla to	pull \$8700 into the police car, this allegation is pled solely against Lieutenant
Daverin.] Sin	refusal to comply with verbal commands and his physical
	being placed inside the car \$37000
§ 87(2)(g)	
	Given
that § 87(2)(g)	was rear-handcuffed when the officers struggled to place him inside the police car,
§ 87(2)(g)	

Allegation (F) Discourtesy: At the 79th Precinct stationhouse, Lieutenant Henry Daverin spoke discourteously to [87(2)(2)]

testified that he was driven to the stationhouse without incident. Once there, medical personnel arrived and administered treatment for various lacerations that he sustained when he was tackled to the ground. Some did not allege that any officer used profanity toward him at the stationhouse.

CCRB Case # 202002855



conducted it because it was a routine part of arrest processing.

Lieutenant Daverin testified that he did not authorize a strip search of sarch of had, it would have been documented in the Command Log. The Command Log did not contain any notation documenting that sarched (Board Review 26).

A strip search is any search in which an individual's undergarments and/or private areas are exposed or in which an individual's clothing is removed, lifted up, or pulled down to expose undergarments or private areas. Strip searches may only be conducted with the knowledge and approval of the arresting officer's immediate supervisor. A strip search may only be conducted when the arresting officer reasonably suspects that weapons, contraband, or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by the previous search methods. <a href="https://www.nyppd.com/nyppd/ny

Given that PO Zorrilla pulled down pants and exposed his undergarments while searching him, some posed his undergarments while polygon posed his undergarments while polygon p

## Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which \$87000 has been a party (Board Review 27).
- Lieutenant Daverin has been a member of the service for 13 years, and has been a subject in 35 cases involving 129 allegations, eight of which were substantiated.
  - In case #201502623, the Board substantiated frisk, vehicle search, and refusal to provide name/shield number allegations against Lieutenant Daverin. The Board recommended Command Discipline A, which the NYPD imposed.
  - In case #201604699, the Board substantiated an entry and search allegation against Lieutenant Daverin. The Board recommended Command Discipline B and the NYPD imposed no discipline.
  - In case # 201911006, the Board substantiated frisk, stop, and discourtesy allegations against Lieutenant Daverin. The Board recommended Command Discipline B and the NYPD has not yet imposed discipline.
- PO Zorrilla has been a member of the service for five years and has been a subject in 11 cases involving 33 allegations, one of which was substantiated. PO Zorrilla's CCRB history does not reflect any apparent pattern pertinent to this investigation.
  - In case #201907037, the Board substantiated a discourtesy allegation against PO
     Zorrilla. The Board recommended Command Discipline A, which the NYPD imposed.

## Mediation, Civil and Criminal Histories

- \$87(2)(g) declined to mediate this complaint.
- As of December 2, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (**Board Review 29**).

•	[9 8/(2)(0)] [99 80(1)(3)&(4)] [9 8/(2)(0)]	

Squad No.: 13

Investigator: Rolando Vasquez SI Rolando Vasquez 3/15/2022
Signature Print Title & Name Date

Squad Leader: Laura Kastner IM Laura Kastner 03/15/2022
Signature Print Title & Name Date